

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
- v. -	:	
	:	S10 17 Cr. 630 (ER)
MARK S. SCOTT,	:	
	:	
Defendant.	:	
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**GOVERNMENT’S PROPOSED
EXAMINATION OF PROSPECTIVE JURORS**

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- Of Counsel -

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The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors.

The Court is requested to pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendant, or otherwise affect the juror's ability to serve as a fair and impartial juror in this case.

Introduction

We are about to select from among you the jurors who will sit in this case. Both sides are entitled to know something about the people who sit as jurors. The law provides this procedure to ensure that both the Government and the defendant receive the fairest possible trial. For this reason, I am going to ask you certain questions. They are not meant to pry unnecessarily into your personal life, but only to elicit the basic information necessary to permit the parties and the

Court to make an informed choice of jurors for the case. If your answer to one of my questions concerns private information, please let me know and we can discuss it out of the hearing of the other potential jurors.

The Charges

1. Before I begin, let me tell you a little bit about the case. This is a criminal case. The defendant has been charged with violating certain provisions of the criminal laws of the United States. The charges against the defendant are contained in an Indictment that was voted by a Grand Jury. The Indictment is not evidence itself; instead, it is merely a document that contains certain charges that the Government is required to prove beyond a reasonable doubt.

2. The defendant in this case is MARK SCOTT. The Indictment charges that from at least in or about September 2015 through at least in or about 2018, MARK SCOTT engaged in a conspiracy, or illegal agreement, to launder the proceeds of a fraud scheme involving a purported cryptocurrency known as “OneCoin,” and that the defendant engaged in a conspiracy to commit bank fraud by misrepresenting and omitting material facts to bank and other financial institutions worldwide to cause those financial institutions to transfer funds into and out of accounts associated with purported investment funds operated by SCOTT and others.

3. The defendant denies the charges and has entered a plea of not guilty.

4. Do any of you believe you have personal knowledge of the charges contained in the Indictment as I have described it? Have you heard anything about this case, in the newspaper, on the radio, on the internet, on television, in podcasts, or from others? *[If answer is “Yes,” the Court is respectfully asked to inquire, at the bench or in the robing room, about the extent and basis of knowledge, and whether that knowledge would affect impartiality.]*

General Questions

5. The trial is expected to last approximately three weeks. Do you have any commitments that would interfere with your serving as a juror at a trial that is expected to last that long?

6. Do you have a problem with your hearing or vision that would prevent you from giving attention to all of the evidence at this trial?

7. Do you have any difficulty in understanding or reading English?

8. Do you have any other special medical problems that might interfere with your service as a juror in this case?

The Parties

9. As I noted before, the defendant in this case is MARK SCOTT. [*Please ask the defendant to rise when each is identified.*] Does any juror know, or has any juror had any dealings, directly, or indirectly, with either of these defendant?

10. To your knowledge, do any of your relatives, friends or associates know the defendant?

11. The defendant is represented today by Arlo Devlin-Brown, Esq., and David Garvin, Esq. Do any of you know or have you had any dealings with Mr. Devlin-Brown, Mr. Garvin, or any individuals in their office?

12. The United States is represented in this case, as in all cases, by the United States Attorney for this District, who is Geoffrey S. Berman. Appearing on his behalf in this case will be Assistant United States Attorneys Christopher DiMase and Nicholas Folly, Special Assistant United States Attorney Julieta Lozano, and Paralegal Specialist Nicholas Barile. Does any juror know, or has any juror had any dealings, directly or indirectly, with Mr. Berman, Mr.

Folly, Mr. DiMase, Ms. Lozano, Mr. Barile, or with any other member of the staff of the United States Attorney's Office for the Southern District of New York?

13. The Assistant United States Attorneys will also be assisted in this case by Ronald Shimko, a Special Agent with the Federal Bureau of Investigation. Have you or your family members or close friends had any dealings, either directly or indirectly, with Special Agent Shimko? The FBI?

Other Persons and Entities

14. During the trial, the Government will present evidence in the form of witness testimony. The Government expects that the following people may be witnesses or may be mentioned in testimony or exhibits. *[The Government will provide the Court with a list of relevant names/witnesses shortly before trial.]*

15. Do any of you know any of the people I have just named?

16. Events in this case took place at: *[The Government will provide the Court with a list of relevant locations shortly before trial.]*

17. Are you familiar with any of those locations?

18. The witnesses in this case may include what are known as accomplice witnesses — a person who has admitted to participating in crimes related to the Indictment as well as other crimes. It is the law in federal courts that the testimony of an accomplice may be enough in itself for conviction, if the jury believes that the testimony establishes guilt beyond a reasonable doubt. Is there anything about the fact that accomplice witnesses will testify in this case that would make you unable to render a fair and impartial verdict?

Relationship with Government

19. Do any of you know, or have any association - professional, business, or

social, direct or indirect - with any member of the staff of the United States Attorney's Office for the Southern District of New York? The Federal Bureau of Investigation? Internal Revenue Service – Criminal Investigation? The Manhattan District Attorney's Office?

20. Have you, any member of your family, or any close friend ever been employed by any law enforcement agency – federal, state, or local? Would your dealings with this person prevent you from rendering a fair and impartial verdict here?

21. Has any juror, either through any experience he or she has had or anything he or she has seen or read, developed any bias, prejudice, or other feelings for or against the United States Attorney's Office? For or against the FBI? For or against the Internal Revenue Service – Criminal Investigation? For or against the Manhattan District Attorney's Office? For or against any other law enforcement agency?

22. Have you, or has any member of your family, either as an individual, or in the course of business, ever been a party to any legal action or dispute with the United States, or with any of the officers, departments, agencies, or employees of the United States? Have any of you had any legal, financial, or other interest in any such legal action or dispute, or its outcome?

Prior Jury Service

23. Have you ever at any time served as a member of a grand jury, whether in the federal, state, or county courts? *[If answer is "Yes," the Court is respectfully asked to explain that the burden of proof in the grand jury – probable cause – is different from the burden of proof at trial – beyond a reasonable doubt]*

24. Have you ever served as a juror in either the state or federal courts?

(a) If so, when and in what court did you serve? What type of case?

(b) Without revealing the verdict, did the jury reach a verdict?

(c) Was there anything about that experience that would impact your ability to sit as a fair and impartial juror in this case?

Experience as a Witness, Defendant, or Crime Victim

25. Have any of you, or any of your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency? Have you, or any of those close to you, ever been questioned in any matter by a federal, state, or local law enforcement agency?

26. Have you ever been a witness or a complainant in any federal or state prosecution?

27. Are you, or is any member of your family, now under subpoena or, to your knowledge, about to be subpoenaed in any criminal case?

28. Have you, has any member of your family, any associate, or close friend, ever been charged with a crime? If so, do you believe that those charges were fairly brought?

29. Have you, or have any of your relatives, associates, or close friends, ever been the subject of any investigation or accusation by any federal or state grand jury, or by any Congressional committee?

30. Have you, or any of your close friends or relatives, ever been a victim of a crime? *[As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the robing room, into the circumstances of each crime.]*

31. Have you, or any of your close friends or relatives, ever been stopped or questioned by any member of Federal Bureau of Investigation, the Internal Revenue Service – Criminal Investigation, or other law enforcement agency? *[As to any prospective juror who*

answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the robing room, into the circumstances of each incident and that prospective juror's reaction to how he or she was treated by law enforcement.]

Case-Specific Questions

32. As I mentioned, during the trial, you will hear evidence concerning a fraud scheme involving a purported cryptocurrency known as OneCoin, and laundering of proceeds from that fraud scheme. You will also hear evidence about a conspiracy to commit bank fraud connected to the OneCoin fraud scheme. Does the fact that the charges involve fraud and money laundering affect your ability to render a fair verdict?

33. You will hear evidence in this case about a purported cryptocurrency known as OneCoin. Have you, or any of your friends or family, invested in OneCoin? Do you have any familiarity with OneCoin?

34. You will hear evidence in this case about cryptocurrency. Have you invested in cryptocurrency? Do you have any familiarity with cryptocurrency?

35. You will hear evidence in this case about multi-level marketing. Have you, or any of your friends or family, ever participated in multi-level marketing?

36. You will hear evidence in this case about private equity funds. Do you have any experience or familiarity with private equity funds?

37. Have you formed an opinion that the actions charged in the Indictment, as I have described them to you, should not be crimes or should not be prosecuted federally?

38. Have you been involved - as a defendant, victim, witness, or in any other way - involving fraud or money laundering?

39. The defendant is charged with acting with others in committing the alleged

crime. Those other individuals are not on trial in this case. You may not draw any inference, favorable or unfavorable, toward the Government or the defendant from that fact. You also may not speculate as to the reason why other persons are not on trial at this time. Would you have difficulty following this instruction or have difficulty rendering a fair and impartial verdict for this reason?

Law Enforcement Witnesses

40. The Government witnesses in this case will include agents and analysts from the Federal Bureau of Investigation, Internal Revenue Service – Criminal Investigation, and the Manhattan District Attorney’s Office. Would any of you be more likely to believe a witness merely because he or she is a law enforcement officer? Would any of you be less likely to believe a witness merely because he or she is a law enforcement officer?

41. Have you ever had an unpleasant experience with any law enforcement officer? [*Positive responses should be handled at sidebar so as not to influence or affect other jurors in venire.*]

Evidence

42. Some of the evidence in this case was obtained through searches conducted by law enforcement officers. This evidence was obtained lawfully. Do you have any beliefs or experiences that would interfere with your ability to fairly evaluate this evidence along with all of the other evidence that will be introduced at this trial?

43. Would any of you be unable to follow the Court’s instructions that the Government is not required to use any particular technique in order to investigate evidence of a crime?

Function of the Court and Jury

44. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finder. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. In other words, when I give you instructions about the law at the close of this trial, you are required to accept the law as stated and apply it to determine whether or not the defendant you are considering is guilty as charged in the Indictment. With this in mind, is there any juror who feels that for any reason he or she is not either willing or able to apply the law as stated by the Court?

45. Under the law, a defendant is presumed to be innocent and cannot be found guilty of the crime charged in a particular count of the Indictment unless a jury, after having heard all of the evidence in the case, unanimously decides that the evidence proves the defendant's guilt beyond a reasonable doubt with respect to that particular count. Would you have difficulty accepting and applying this rule of law?

46. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether the defendant are guilty or innocent?

47. Will each of you accept the proposition of law that sympathy or empathy must not enter into the deliberations of the jurors as to guilt or innocence of either defendant, and that only the evidence produced here in Court may be used by you to determine the guilt or innocence of either defendant?

48. It is not a particularly pleasant duty to find another individual guilty of

committing a crime. Is there any juror who feels that even if the evidence established a defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

49. Do any of you have any religious, philosophical, or other beliefs that would make you unable to render a guilty verdict for reasons unrelated to the law and the evidence?

Other Biases

50. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly and impartially in this case, and to render a true and just verdict without fear, favor, sympathy, bias, or prejudice — and according to the law as it will be explained to you?

Juror's Background & Affiliations

51. Please provide the following background information:

- (a) How old are you?
- (b) What is the county and general section or community of your residence?
- (c) What is the highest level of schooling you have completed?
- (d) Who else lives in your home with you, if anyone?
- (e) Do you have any children? If so, what are their ages and what do they do?
- (f) How long have you lived at your present address? *[If less than five years, please inquire as to prior residence.]*

- (g) What is your occupation?
- (h) What is your current employment status? *[If retired, please inquire as to former occupation.]*
- (i) *[If employed]*: What is the name of your employer?
- (j) What are your position and responsibilities at your job?
- (k) How long have you been employed in your current job? *[If present employment is for less than five years, please inquire as to prior employment.]*
- (l) *[If married or has domestic partner]*: What is your spouse's or partner's profession, business or occupation? *[If spouse is retired, please inquire as to occupation before retirement.]*
- (m) What newspapers, magazines or websites do you read and how often?
- (n) What television programs do you regularly watch?

Requested Instructions Following Impaneling of the Jury

52. From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your own family and your friends. If your friends or family ask you about the trial, you may simply tell them that you are a juror in a criminal case and that the judge has instructed you not to discuss it.

53. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should tell that person that you cannot discuss the case and immediately report such an attempt to me

through my deputy clerk. In this regard, let me explain to you that the attorneys and the defendant in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so.

54. Please do not read or watch anything in newspapers, television, or on the Internet that relates to the case or any of its participants in any way. This means no Google searches, or looking anything up on the Internet regarding the case or anyone involved in it. My instruction that you cannot discuss the case also applies to instant messages, chats, texts, emails, and social media, including Facebook, Twitter, Instagram, Snapchat, blogs, etc. Do not discuss the case at all, and do not write or post anything about the case at all.

Dated: New York, New York
October 18, 2019

Respectfully submitted,

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